

Appeal from a decision of the New Mexico State Office, Bureau of Land Management, rejecting appellant's high bids for competitive oil and gas leases NM 57732 (OK), NM 57734 (OK), and NM A-57739 (OK).

Set aside and remanded.

1. Oil and Gas Leases: Competitive Leases: Oil and Gas Leases:  
Discretion to Lease

The Secretary of the Interior has the discretionary authority to reject a high bid in a competitive oil and gas lease sale where the record discloses a rational basis for the conclusion that the amount of the bid was inadequate. The explanation provided must inform the bidder of the factual basis of the decision and must be sufficient for the Board to determine the correctness of the decision if disputed on appeal.

2. Oil and Gas Leases: Competitive Leases: Oil and Gas Leases:  
Discretion to Lease

Where a competitive oil and gas lease high bid is not clearly spurious or unreasonable on its face and the record fails to disclose a sufficient factual basis for the conclusion that the bid is inadequate, the decision will be set aside and the case remanded for compilation of a more complete record and readjudication of the bid.

APPEARANCES: Michael Shearn, pro se.

OPINION BY ADMINISTRATIVE JUDGE FRAZIER

Michael Shearn has appealed from decisions dated November 22, 1983, by the New Mexico State Office, Bureau of Land Management (BLM), rejecting his high bids submitted for oil and gas leases NM 57732 (OK), NM 57734 (OK), and NM A-57739 (OK). The only reason given for rejection of the bids was that BLM's "evaluation of this parcel shows that the bid was less than the pre-sale tract valuation." In Mesa Petroleum Co., 81 IBLA 194 (1984), we noted that we are unable to determine the correctness of BLM's decision where the record fails to show the factual basis for the presale tract valuation.

[1, 2] The Secretary of the Interior has discretionary authority to reject a high bid for a competitive oil and gas lease as inadequate. 30 U.S.C. § 226(b) (1982); 43 CFR 3120.3-1. E.g., Viking Resources Corp., 80 IBLA 245 (1984); Edward L. Johnson, 73 IBLA 253 (1983). This Board has consistently upheld that authority, so long as there was a rational basis for the conclusion that the highest bid does not represent a fair market value for the parcel. E.g., Viking Resources Corp., supra at 246; Ambra Oil & Gas Co., 75 IBLA 11, 14 (1983); Glen M. Hedge, 73 IBLA 377, 378-79 (1983); Edward L. Johnson, supra at 254-55. Departmental policy in the administration of its competitive leasing program is to seek the return of fair market value for the grant of leases, and the Secretary reserves the right to reject a bid which will not provide a fair return. Viking Resources Corp., supra at 246; Glen M. Hedge, supra at 379; Coquina Oil Corp., 29 IBLA 310, 311 (1977).

The Department is entitled to rely on the reasoned analysis of its technical experts in matters involving geologic evaluation of tracts of land offered at a sale of competitive oil and gas leases. Viking Resources Corp., supra at 246; L. B. Blake, 67 IBLA 103 (1982). However, when BLM relies on that analysis in rejecting a bid as inadequate, it must ensure that a reasoned explanation is provided for the record to support the decision. E.g., TXO Production Corp., 73 IBLA 258, 261 (1983); Edward L. Johnson, supra at 255; Southern Union Exploration Co., 41 IBLA 81, 83 (1979). Otherwise, if the bid is not clearly spurious or unreasonable on its face, the Board has consistently held that the decision must be set aside and the case remanded for compilation of a more complete record and readjudication of the acceptability of the bid. E.g., Ambra Oil & Gas Co., supra at 14; TXO Production Corp., supra at 255; Edward L. Johnson, supra at 255. In Southern Union Exploration Co., 51 IBLA 89, 92 (1980), this Board stated:

[T]he appellant is entitled to a reasoned and factual explanation for the rejection of its bid. Appellant must be given some basis for understanding and accepting the rejection or alternatively appealing and disputing it before this Board. The explanation provided must be a part of the public record and must be adequate so that this Board can determine its correctness if disputed on appeal. Steven and Mary J. Lutz, 39 IBLA 386 (1979); Basil W. Reagel, 34 IBLA 29 (1978); Yates Petroleum Corp., 32 IBLA 196 (1977); Frances J. Richmond, 24 IBLA 303 (1976); Arkla Exploration Co., 22 IBLA 92 (1975).

We are unable to determine the correctness of the BLM decisions on the basis of the present record. The record is deficient in that it does not reveal the presale evaluation of parcels. The record does not provide appellant an adequate basis for understanding and accepting the bid rejection or for disputing it before this Board.

There is insufficient elaboration of factual data in the record. See Davis & Smith, Ltd., 73 IBLA 22, 24 (1983); Southern Union Exploration Co., 41 IBLA at 84. The record does not contain any underlying calculations, nor did it contain any data in support of its conclusion. In order for this Board to find that BLM had a rational basis for its conclusion, we must know that basis. A plethora of Board decisions have reiterated the requirements

necessary to document a decision. See Viking Resources Corp., 77 IBLA 57, 61-62 (1983) (Burski, A.J., concurring). "We cannot simply accept the correctness of all pre-sale evaluations as an article of faith and still preserve the integrity of this Board as an impartial tribunal for administrative review." Larry White, 72 IBLA 242, 247 (1983) (Stuebing, A.J., concurring).

This Board will not substitute its judgment for that of BLM in determining the fair market value of the parcels for which appellant applied, but rather the Board will require sufficient facts and analysis to ensure that a rational basis for the determination is present. E.g., Viking Resources Corp., 77 IBLA at 59, TXO Production Corp., supra at 261; Davis & Smith, Ltd., supra at 261.

We recognize that ultimately appellant must not merely show that the Government's estimates did not constitute fair market value, but he must also affirmatively show that his bids represented fair market value. Kevin J. Bliss, 82 IBLA 31 (1984). But as we noted in Larry White, 81 IBLA 19 (1984), the burden of justifying his bids does not shift to appellant "in the absence of sufficient documentation of the Government's estimate such as would establish its prima facie correctness." Id. at 22 n.2. See also R. T. Nakaoka, 81 IBLA 197, 200 (1984). Such a prima facie case cannot be made in the absence of a disclosure of what the presale evaluation was. In readjudicating the bids, BLM should consider the arguments presented by appellant's statement of reasons. If his bids are rejected again, BLM shall set forth the reasons for doing so, including the presale evaluation, so that these reasons may be addressed by appellant and considered by the Board in the event of an appeal.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are set aside and remanded for further consideration consistent with this decision.

Gail M. Frazier  
Administrative Judge

We concur:

Bruce R. Harris  
Administrative Judge

C. Randall Grant, Jr.  
Administrative Judge